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5 EXECUTIVE SESSION

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7 COMMITTEE ON EDUCATION AND LABOR,
8 U.S. HOUSE OF REPRESENTATIVES,
9 WASHINGTON, D.C.

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13 DEPOSITION OF: WILLIAM P. REITZE

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17 Friday, February 15, 2008

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19 Washington, D.C.

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22 The deposition in the above matter was held in Room
23 B-345A, Rayburn House Office Building, commencing at 10:00
24 a.m.

25

1 Appearances:

2

3 For COMMITTEE ON EDUCATION AND LABOR

4 BRIAN KENNEDY, GENERAL COUNSEL

5 MICHAEL ZOLA, CHIEF INVESTIGATIVE COUNSEL

6 PATRICK FINDLAY, INVESTIGATIVE COUNSEL

7 ROBERT BORDEN, MINORITY GENERAL COUNSEL

8 JAMES A. PARETTI, JR., MINORITY WORKFORCE POLICY COUNSEL

9

10 For UNITED STATES DEPARTMENT OF LABOR

11 MARK R. MALECKI, ESQ.

12

13 Other staff present for the Education and Labor

14 Committee: Sarah Dyson, Investigative Associate; Ed Gilroy,

15 Minority Director of Workforce Policy; Loren Sweatt, Minority

16 Professional Staff Member; and Richard Hoar, Minority

17 Professional Staff Member.

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1 Mr. Findlay. Let's go on the record.

2 If you would swear the witness, please.

3 THEREUPON,

4 WILLIAM P. REITZE,

5 A witness, was called for examination, and after having
6 been first duly sworn, was examined and testified as follows:

7 Mr. Findlay. Okay. This deposition is being conducted
8 by staff of the Committee on Education and Labor of the
9 United States House of Representatives at the direction of
10 the chairman of the committee. Specifically, this deposition
11 is being conducted pursuant to House Resolution 836 from the
12 110th Congress and under the committee's deposition rule.
13 The committee sought this deposition to further the
14 committee's investigation of the deaths that occurred in
15 August of last year at the Crandall Canyon Mine in Utah.

16 Thank you for being here today.

17 Mr. Reitze, please state and spell your full name for
18 the record.

19 The Witness. William P. Reitze, R-E-I-T-Z-E.

20 Mr. Findlay. Thank you. We'll now introduce everyone
21 in the room, and then I'll describe in more detail how we'll
22 proceed this morning.

23 My name is Patrick Findlay. I am Investigative Counsel
24 to the Committee on Education and Labor. With me,
25 representing the majority side of the committee is Michael

1 Zola, Chief Investigative Counsel, and Brian Kennedy, General
2 Counsel for Labor. We will be assisted by Sarah Dyson behind
3 me, whose position is Investigative Associate. Also present
4 is the Official Reporter and another Official Reporter who
5 will be in and out who will be transcribing these
6 proceedings. In addition, various individuals are in the
7 room from the minority side of our committee.

8 Rob, would you please introduce everyone.

9 Mr. Borden. Sure. I'm Robert Borden, General Counsel
10 for the minority staff.

11 Mr. Paretti. Jim Paretti, Labor Counsel for the
12 minority staff.

13 Mr. Gilroy. Ed Gilroy, Director of Workforce Policy for
14 the minority staff.

15 Ms. Sweatt. Loren Sweatt, Professional Staff Member for
16 the minority staff.

17 Mr. Hoar. Richard Hoar, Professional Staff Member for
18 the minority staff.

19 Mr. Findlay. Okay. We also have counsel here today
20 representing the Department of Labor and MSHA.

21 If you would, please state your appearance.

22 Mr. Malecki. Good morning. My name is Mark Malecki,
23 Office of the Solicitor, U.S. Department of Labor.

24 Mr. Findlay. Mr. Reitze, I see you don't have any other
25 counsel today. Were you aware that our rule allows you to

1 have personal counsel if you wanted to bring someone?

2 The Witness. Yes.

3 Mr. Findlay. You decided not to?

4 The Witness. Yes.

5 Mr. Findlay. Okay. Very good.

6 Questioning this morning will go as follows: I will ask
7 you questions for up to an hour or so. We'll probably take a
8 short break about every hour. If you need to take a break at
9 any other time, please let me know and we'll take a break.

10 Will you do that?

11 The Witness. Sure.

12 Mr. Findlay. Good. I would ask that if there is a
13 question pending that you answer it before we take a break.
14 When I'm finished with my questions, minority counsel may ask
15 some questions. Other than who is asking the questions,
16 their procedure will be the same.

17 The reporter will be taking down everything that is said
18 and will make a written record of the deposition. To make
19 this written record clear, I ask that you give verbal
20 answers -- for example, a clear "yes" rather than a "yeah"
21 when answering affirmatively. Please remember that nods and
22 gestures do not make it into the record; is that clear?

23 The Witness. Yes.

24 Mr. Findlay. Also, in order for the record to be clear,
25 I will do my best to wait to ask my next question until you

1 have finished answering the previous question. I ask that
2 you wait to begin answering any question until I have gotten
3 it all out; is that okay?

4 The Witness. Yes.

5 Mr. Findlay. If you don't hear a question or don't
6 understand a question, please say so. This is very
7 important. If you don't speak up, tell us otherwise, we will
8 assume that you have heard the question and understand it,
9 okay?

10 The Witness. Okay.

11 Mr. Findlay. Because you've been placed under oath,
12 your testimony here today has the same force and effect as if
13 you were testifying before the full committee at a public
14 hearing. If you knowingly provide false testimony, you could
15 be subject to criminal prosecution for perjury, for making
16 false statements or for other related offenses.

17 Do you understand that?

18 The Witness. Yes.

19 Mr. Findlay. You have the right to refuse to answer any
20 question if answering that question would tend to incriminate
21 you in criminal wrongdoing. Do you understand that?

22 The Witness. Yes.

23 Mr. Findlay. Okay. Are you suffering from any
24 condition that would prevent you from giving me your full
25 attention this morning?

1 The Witness. No.

2 Mr. Findlay. Is there any reason why you would be
3 unable to provide truthful answers during today's deposition?

4 The Witness. No.

5 Mr. Findlay. Have you understood everything we've gone
6 over so far?

7 The Witness. Yes.

8 Mr. Findlay. Do you have any questions before we
9 continue any further?

10 The Witness. No.

11 EXAMINATION

12 BY MR. FINDLAY:

13 Q Have you ever given a deposition before?

14 A For court, yes.

15 Mr. Paretti. Objection; relevance.

16 You can answer.

17 The Witness. For court.

18 Mr. Findlay. For court. Okay.

19 BY MR. FINDLAY:

20 Q What were the circumstances there?

21 A I honestly don't remember. It was an MSHA court
22 case. I don't remember specifically.

23 Q Okay. About how long ago was it?

24 Mr. Paretti. Objection; relevance.

25 Patrick, on the record: Objection; relevance to this

1 entire line of questioning.

2 I mean you can answer.

3 I guess we have to preserve these objections, right?

4 That's what the rule says.

5 Mr. Findlay. No. All objections are preserved until --

6 I mean --

7 Mr. Paretti. Is that --

8 Mr. Findlay. Could we go off the record?

9 Mr. Paretti. Yes, let's go off the record for a second.

10 [Discussion off the record.]

11 Mr. Findlay. We're ready to go back on the record.

12 Counsel between the minority and majority have
13 stipulated that no objection will be waived for failure to
14 state that objection today.

15 Is that correct, Jim?

16 Mr. Paretti. That's my understanding as well, correct.

17 BY MR. FINDLAY:

18 Q We were talking, I think, about a previous
19 deposition. How long ago was it that you gave it?

20 A I don't honestly remember. It's probably been
21 within the last 3 or 4 years.

22 Q What did you do to prepare for today's deposition?

23 A Basically, I just reviewed my notes for the event
24 in March. Past that, I didn't -- don't know what to prepare.

25 Q Fair enough. Have you given any other interviews

1 or recorded interviews, a deposition like --

2 Mr. Paretti. Objection; form.

3 BY MR. FINDLAY:

4 Q Have you given any interviews regarding the deaths
5 at Crandall Canyon in August?

6 Mr. Malecki. I'm going to object on the grounds that
7 that would involve our investigatory efforts to find out what
8 happened at Crandall Canyon as to any discussion of who he
9 may have spoken with on the accident investigation teams,
10 either the internal one or the accident team. However, the
11 remainder of your question I have no objection to if he gave
12 any other interviews to people other than to the Department
13 of Labor accident investigation or to the internal
14 investigation.

15 Do you understand my instruction?

16 Mr. Findlay. Are you instructing the witness not to
17 answer?

18 Mr. Malecki. Well, I just want to try and have him
19 answer the question that you've propounded.

20 Mr. Findlay. Let's go back then.

21 BY MR. FINDLAY:

22 Q Other than to the MSHA mine accident investigation
23 team, have you given any other interviews regarding the
24 deaths at Crandall Canyon Mine in August of last year?

25 A The Office of the Inspector General.

1 Q Have you given an interview or other statement to
2 the MSHA mine accident investigation team?

3 Mr. Malecki. Objection for the same reason. Now, that
4 would be divulging what the activities are of the accident
5 investigation team.

6 Mr. Findlay. Are you directing him not to answer?

7 Mr. Malecki. Yes, I am.

8 BY MR. FINDLAY:

9 Q Have you turned over any documents to the MSHA mine
10 safety -- or mine disaster/accident investigation team?

11 Mr. Malecki. Same objection. We prefer he not answer
12 that question. I instruct you not to.

13 Mr. Findlay. Okay.

14 BY MR. FINDLAY:

15 Q What is your post high school education?

16 A I'm a graduate of the Colorado School of Mines.

17 Q In what year?

18 A 1975.

19 Q From 1975 on, what is your pre MSHA employment
20 history?

21 A I worked for U.S. Steel Mining Company.

22 Q What did you do for them?

23 A Well, I started out right out of college there, and
24 then worked my way up to Senior Mine Engineer.

25 Q Okay. Where was that?

1 A Somerset, Colorado.

2 Q When did you first begin working for MSHA?

3 A 1987.

4 Q Not including your current position, please run
5 through all of the prior jobs that you had at MSHA, and tell
6 us when you had them.

7 A Well, from 1987 to 1992, I was a ventilation
8 specialist. In 1992, I became the ventilation supervisor.

9 Q Okay. That's your current position?

10 A Correct.

11 Q To whom do you report in your current position?

12 A William Knepp.

13 Q What is his position if you know?

14 A Assistant District Manager for Technical Services.

15 Q Who reports to you?

16 A I have four people -- Hillary Smith, Jeff Fleshman,
17 Sid Hansen, and then an administrative assistant.

18 Q The first three, what are their positions?

19 A Ventilation Specialists.

20 Q Walk us through, if you will, your role as the
21 supervisor. What sorts of plans, if any, do you approve,
22 that sort of thing?

23 A Well, I actually don't approve anything.

24 Q Okay.

25 A Our function is to review ventilation plans, mine

1 maps, emergency response plans, mine emergency evacuation
2 plans, mine rescue plans. We review those against policy
3 regulation, engineering -- engineering -- I don't know what
4 you call it -- prudent engineering practices, I guess, and
5 then make recommendations on up the line.

6 Q And those recommendations go to?

7 A Ultimately, they go to Allyn Davis, but they do go
8 through Bill Knepp first.

9 Q How do you divide the work between the specialists
10 who work for you?

11 A Normally, what happens is that I assign particular
12 mines to particular specialists.

13 Q So it's not done by -- one of them doesn't do ERPs,
14 and one doesn't do --

15 A Generally speaking, that's true.

16 Q Okay. Who was assigned to the Crandall Canyon
17 Mine?

18 A Jeff Fleshman.

19 Mr. Paretti. Objection; form.

20 At what point are you asking, Patrick?

21 BY MR. FINDLAY:

22 Q Who was assigned to the Crandall Canyon Mine on
23 August 1st, 2006?

24 A Jeff Fleshman.

25 Q Who was assigned on August 5th of last year?

1 A Jeff Fleshman.

2 Q And it was Jeff Fleshman between those two dates?

3 A Yes.

4 Q I'd like to go back to the summer of 2006.

5 Did you have any role in reviewing a ventilation control
6 plan for the Crandall Canyon Mine at that time?

7 A Yes.

8 Q What area of the mine was the plan covering?

9 A Well, it could have been any part of the mine. We
10 do the ventilation for the mine, so it was a ventilation plan
11 for the mine.

12 Q Do you remember when in 2006 exactly it was that
13 you approved the plan?

14 Mr. Paretti. Objection. Patrick, I think you need to
15 lay some foundation and walk him through this a little bit.
16 You've asked him if he has had any role in reviewing a plan.
17 Then you've immediately jumped to he has approved the plan --
18 and he has indicated -- without even specifying which plan it
19 is. I'm not trying to be difficult, but I think it might
20 make sense to proceed a little more methodically. Otherwise,
21 we're going to have a record that is full of holes.

22 BY MR. FINDLAY:

23 Q You said you reviewed a plan in the summer of 2006;
24 is that correct?

25 A I could have. I mean I don't know a specific date

1 without going back and looking and seeing what those plans
2 were, but --

3 Mr. Findlay. I'll ask the court reporter to mark this
4 as exhibit 1, please.

5 [Reitze Exhibit No. 1
6 was marked for identification.]

7 BY MR. FINDLAY:

8 Q Now, unfortunately, we were not able to find a copy
9 of the e-mail that's reflected in -- the earliest e-mail in
10 this chain, so I'd ask you to do the best you can and ignore
11 the top part of this page and focus on the second part, the
12 e-mail apparently dated February 12th, 2007 at 11:18 a.m.

13 I will ask: Do you recognize this first e-mail in the
14 chain?

15 Mr. Paretti. Objection. You're asking him if he
16 recognizes the February 12th portion? You're asking him if
17 he recognizes the part that is purported on this document to
18 be from William P. Reitze, not the section that's above it.

19 Is that what you're asking?

20 Mr. Findlay. Yes.

21 Mr. Paretti. Okay. You can answer that, please.

22 The Witness. Yes, I'm sure I probably wrote that. Yes.

23 BY MR. FINDLAY:

24 Q Okay. Who is Jim Poulson?

25 A He is the Manager of Safety for UtahAmerican.

1 Q Okay. Now, in this e-mail, in the first sentence,
2 you write, "I did get your voice mail."

3 Do you remember what the content of that voice mail was?

4 A No. That far back, no way.

5 Q And reading through the e-mail doesn't help refresh
6 your recollection?

7 A Do you mean -- are you asking specifically what the
8 voice mail is referring to from the plan standpoint? Is that
9 what you're asking?

10 Q Generally. I guess what recollection of the
11 voice mail do you have, if any?

12 A I don't have any right now.

13 Q Do you remember in the middle of February 2007
14 whether there were any drill plans that needed to be or that
15 were requested to be approved by Crandall Canyon Mine?

16 Mr. Paretti. Objection. That's broad and vague.
17 You can answer that.

18 The Witness. They submitted a drill plan to drain water
19 sometime. I don't remember exactly when it was.

20 BY MR. FINDLAY:

21 Q What is a drill plan?

22 A They wanted to be able to drill a hole to drain
23 water. As I recall, they wanted to drill this hole such that
24 it would go into a sealed area. *

25 Q Any time a mine operator wants to drill holes into

1 a sealed area, it requires a plan?

2 A Yes.

3 Q And that has to be approved by MSHA?

4 A Yes.

5 Mr. Paretti. Objection only insofar as he is
6 characterizing what MSHA requires or what the statute
7 requires. Based on his experience, he can answer.

8 BY MR. FINDLAY:

9 Q Is there a procedure for rushing the approval of
10 one of the drill plans?

11 A Is there a procedure? No.

12 Q What is the process for approving the drill plan?

13 A We review what the operator has submitted based on
14 the regulation, policy, engineering practices, et cetera, and
15 see if what they're proposing is approvable. Then we'll make
16 our recommendation to the district manager one way or the
17 other.

18 Q Is it first in/first out on the plan approval? Do
19 you know what I mean by that?

20 Mr. Malecki. Objection. I think he said he is not the
21 one who approves the plan. He just makes the recommendation,
22 right? So he wouldn't have knowledge as to that.

23 BY MR. FINDLAY:

24 Q Well, do you have knowledge as to whether it's
25 first in/first out on the approval of plans?

1 A Normally, it is, but there are times when to be
2 able to -- for an operator to continue to operate without
3 having to shut down, we'll move something up in the stack.

4 Q Do you refer to that as a "rush"?

5 A Yes.

6 Q A rush request, is that relayed to you any
7 differently by the mine operator?

8 Mr. Paretti. Objection to form. Different than what?

9 Mr. Findlay. I mean, if the witness doesn't understand,
10 then --

11 Mr. Paretti. Okay. I'm not sure I understand.

12 BY MR. FINDLAY:

13 Q Is a rush request filed, presented or otherwise
14 shown to you any differently than a non rush request?

15 A Sometimes.

16 Q How so?

17 A Sometimes it could be faxed; sometimes it could be
18 e-mailed, but sometimes it's already in the office. They've
19 submitted it by mail. It's already in the office on the
20 stack.

21 Mr. Findlay. Will you please mark Exhibit 2.

22 [Reitze Exhibit No. 2

23 was marked for identification.]

24 Mr. Paretti. Counsel, on the record, I note these bear
25 Bates Stamps. Can you just tell me the source of the

1 documents and whose Bates numbers those are?

2 Mr. Findlay. You have these documents.

3 Mr. Paretti. I don't doubt that. I'm just asking for
4 the record: By whom were these documents produced to you?

5 Mr. Findlay. UtahAmerican Energy, which is a subsidiary
6 of Murray Energy Corporation.

7 Mr. Paretti. Okay. That's their Bates number?

8 Mr. Findlay. Yes.

9 Mr. Paretti. Okay.

10 BY MR. FINDLAY:

11 Q Mr. Reitze, take a look at Exhibit 2, if you would,
12 and tell me if you remember receiving this e-mail.

13 A Do I remember receiving it? No.

14 Q Is that your e-mail address in the "to" field?

15 A It is.

16 Q Do you have any reason to believe you didn't
17 receive this e-mail?

18 A No.

19 Q Is this e-mail consistent with the mine operator's
20 making a rush request?

21 Mr. Paretti. Objection.

22 The Witness. I'm not sure what you mean by
23 "consistent." It's a method of communication.

24 BY MR. FINDLAY:

25 Q Okay. Who is Tom Hurst, if you know?

1 A He currently is a mine engineer for Energy West
2 Mining Company, I believe.

3 Q Do you know at the time this e-mail was sent where
4 he would have been?

5 A He was, I believe, the chief engineer for
6 UtahAmerican.

7 Q Do you know who David Hibbs is?

8 A David Hibbs is the current chief engineer for
9 UtahAmerican.

10 Q Who is Laine Adair?

11 A Laine Adair is the general manager for
12 UtahAmerican.

13 Q And Bruce Hill?

14 A I believe Bruce Hill is the president for
15 UtahAmerican.

16 Q I'd like to take you to March of last year.

17 Do you remember receiving a voice mail in the middle of
18 March from Laine Adair regarding conditions at the Crandall
19 Canyon Mine?

20 Mr. Paretti. Objection; leading, form, lack of
21 foundation. I mean, wow.

22 Mr. Findlay. I'll ask the reporter to repeat the
23 question, please.

24 [The reporter read the record as requested.]

25 The Witness. No.

1 BY MR. FINDLAY:

2 Q Do you remember receiving any voice mails in March
3 of 2007 from any operator at the Crandall Canyon Mine
4 regarding conditions at the mine?

5 A Yes.

6 Q What do you recall?

7 A Jim Poulson said he was going to send a map over,
8 he and wanted to talk about Crandall Canyon.

9 Q Do you remember when that was?

10 A It was like -- it was a Monday evening. Was it the
11 12th or the -- I don't remember the date. I don't have that
12 in front of me.

13 Q Did Mr. Poulson send a map?

14 A Not that I ever found.

15 Q So you do not recall receiving a voice mail from
16 anyone else on March 12th or 13th regarding the conditions at
17 Crandall Canyon Mine?

18 A A voice mail, I did not get other than from Jim
19 Poulson Monday evening. It was after I went home.

20 Q Are you aware of a bump or bumps -- strike that.
21 What is a "bump" or a "bounce" in mine parlance?

22 Mr. Paretti. Objection as to form, but you can answer
23 it if you can.

24 The Witness. It's the relieving of pressure. As the
25 coal is removed from its natural deposit, the pressure -- the

1 coal that was there was -- had a pressure on it. It was
2 being -- it was supporting some kind of a load. When you
3 remove that, that load then gets transferred to some other
4 location, and sometimes it's not quiet when it does it.
5 There are noises. So it's -- I guess it's a relieving of
6 pressure.

7 BY MR. FINDLAY:

8 Q Would someone in a mine feel a bump or a bounce?

9 A Not necessarily.

10 Q Were you ever made aware of any bumps or bounces
11 that occurred at the Crandall Canyon Mine in March of 2007?

12 A Yes.

13 Q How were you made aware of those?

14 A I got a phone call from Laine Adair and somebody
15 else who said that they wanted to change their ventilation
16 plan.

17 Q Do you remember when you received the phone call
18 from Laine Adair?

19 A That would have been Tuesday morning. So would
20 that be the 13th? I don't know. It's whatever that Tuesday
21 is in March.

22 Q You received the call?

23 A Yes.

24 Q How did Mr. Adair describe the conditions at the
25 mine, if he did?

1 A At that point in time, he requested that the MPL be
2 moved from where it was approved to even with the cave line,
3 the pillar line, so that they could continue to mine because
4 he didn't want people walking back to the back end of the --
5 where the MPL was actually located.

6 Q What is an "MPL"?

7 A It's a bleeder measurement point location, a
8 measurement point location to determine the effectiveness of
9 the bleeder system.

10 Q Okay. What is the "bleeder system"?

11 A A bleeder system is designed to move methane and
12 other noxious or hazardous gasses away from the pillar line
13 back and out, away from the faces where they're actually
14 doing the mining, and that movement of air -- well, it takes
15 away the bad air, if you will, if there is any, and moves it
16 in a different direction.

17 Q The MPL tests the quality of that air?

18 A Correct. It's a location you have to walk to so
19 that you can make a test for that area.

20 Q Who would walk to and test it?

21 A Their examiners. We have MSHA employees who go
22 back there, inspectors.

23 Q How often would an MPL, say this MPL, be visited?

24 A It has to be examined once every week.

25 Q Is that to take a reading or to inspect it?

1 A Yes.

2 Q For both?

3 A Yes.

4 Q So do you recall who the other person was? You
5 said you received a call from another person.

6 A No. I think he was on the same phone call. I
7 believe it was Gary Peacock.

8 Q Who is Gary Peacock?

9 A I believe he is -- I'm not 100 percent sure, but I
10 believe he is the superintendent of the Crandall Canyon
11 Mine --

12 Q And --

13 A -- or was.

14 Q Mr. Peacock and Mr. Poulson and Mr. Adair, their
15 positions were the same, as far as you know, back in March of
16 last year as they were in August of last year?

17 A As far as I know.

18 Q Fair enough. So they told you they wanted to move
19 the MPL. Did they tell you why exactly?

20 A They didn't want people walking back there. They
21 had had a bounce, and they didn't want people to walk back to
22 the back anymore, but they wanted to continue mining.

23 Q Why would they not want people to walk back?

24 Mr. Paretti. Objection; speculation. You're asking him
25 to speculate.

1 BY MR. FINDLAY:

2 Q If they told you, what did they tell you as to why
3 they didn't want someone to walk back?

4 A In that particular phone call, they didn't tell me
5 specifics. They hadn't been back there to look at it. They
6 didn't tell me any specifics at that point in time. There
7 were several phone calls on that day.

8 Q We're still talking about the first. When you say
9 there were several phone calls, there were several
10 phone calls between you and Mr. Adair?

11 A Yes, on that Tuesday, or Gary -- or Jim Poulson or
12 somebody from the company.

13 Q Sure. This first phone call we're talking about is
14 the phone call where they asked you to move the MPL?

15 A Correct.

16 Q Okay. The only reason they gave was that they
17 didn't want anyone to have to walk to --

18 Mr. Paretti. Objection. He said they didn't give him a
19 reason.

20 BY MR. FINDLAY:

21 Q Did they give you a reason why they wanted to move
22 the MPL?

23 Mr. Paretti. In the first phone call? Objection as to
24 form. In the first phone call?

25 BY MR. FINDLAY:

1 Q In the first phone call, did they give you a
2 reason?

3 A Well, that's all in my notes, and I don't remember
4 specifically which phone call was which because there were
5 several on that day, but I believe they said that they didn't
6 want people walking back there at that time.

7 Q After they made the request, what was your answer?

8 A "No."

9 Q "No," meaning they had to keep the MPL where it
10 was?

11 A Correct.

12 Q How did they respond to that answer?

13 A Then we want to seal the section. We don't want to
14 continue to mine anymore. We want to seal the section.

15 Q Did they elaborate on that anymore or give you any
16 reasons?

17 A In that particular phone call?

18 Q In that particular phone call.

19 A Again, there were several phone calls on that day.
20 There was a phone call later on after they had traveled back
21 there --

22 Q Okay.

23 A -- back to the MPL.

24 In that one, they elaborated a little more on the
25 conditions, but on that first phone call, I don't recall

1 specifically if they had a very specific reason other than
2 they didn't want somebody to walk back there.

3 Q Sure. Then on the subsequent call or calls, what
4 did they tell you about the conditions?

5 A That they traveled back there and that the ribs
6 were busted up; the roof was in very good shape; the
7 ventilation structures needed repairs and that they didn't
8 want to have to haul roof control materials back there
9 anymore -- or back there to resupport some of the areas where
10 the roof support that was already existing was too far from
11 the -- from the rib. Then they also didn't want to -- at one
12 point, in one of those conversations, they asked about -- if
13 they could just use curtains to repair the ventilation
14 devices, and I told them "no" on that. It needed to be
15 permanent ventilation controls, and they didn't want to do
16 that either.

17 Q Just to clarify, when you say the "ribs were busted
18 up," did they elaborate on that or did you take that to mean
19 anything in particular?

20 A That they were broken up. I mean, you know, not --

21 Q Describe what a "rib" is for us.

22 A A "rib" is like the wall of the entry.

23 Q And it's composed of coal or --

24 A Yes. Generally, it's coal, yes.

25 Q You said they said the roof was in good shape --

1 A That's what they said.

2 Q -- and that the ventilation systems were in rough
3 shape?

4 A Some of the ventilation structures needed to be
5 repaired but that, when they got to the MPL, the oxygen was
6 okay. There was no methane. So there was no issue back
7 there.

8 Q Did they give any more explanation of why they
9 wouldn't want a person to go back to the MPL at that
10 location?

11 A No.

12 Q Did they reiterate their desire to then seal the
13 mine?

14 A Yes.

15 Q Did you inquire as to any other details while you
16 were talking to them on that or in any subsequent calls that
17 day?

18 A I did not, not that I recall anyway.

19 Q Did they indicate to you that they would submit a
20 plan for approval to approve the seals?

21 Mr. Paretti. Objection; leading.

22 Patrick, if you want him to relate the contents of the
23 conversation, ask him to, but you're -- I've stated my
24 objection.

25 The Witness. Say that again then.

1 BY MR. FINDLAY:

2 Q Did they indicate to you that they would submit a
3 plan to you or to MSHA to seal that section of the mine?

4 Mr. Paretti. Objection; form, breadth, vague.

5 You can answer, if you understand the question.

6 The Witness. They said they were going to submit a plan
7 to seal that part of the mine, yes.

8 BY MR. FINDLAY:

9 Q Was it your understanding that if you had -- strike
10 that. Did they tell you if you approved the moving of the
11 MPL that they would continue to mine in that section?

12 Mr. Paretti. Objection. Before the witness answers,
13 are we talking about the first conversation or other
14 conversations? Objection. Who are "they"?

15 Mr. Findlay. Again, if the witness is unclear, the
16 witness can ask me. It's not your role to determine --

17 Mr. Paretti. Okay. Well, we're establishing a record
18 here that conceivably will be entered before the committee
19 or --

20 Mr. Kennedy. We've already stipulated to it.

21 Mr. Paretti. Right. Well, except as to form, Brian.
22 You can't cure a form objection later. So, if the question
23 is vague when it's asked, that's -- if it's hearsay, if it's
24 relevant, if it's competence, those are issues we can debate
25 if and when this is offered for evidence. You can't cure a

1 form exception 3 months from now. So I'm going to make those
2 objections as to form so as to clarify the questions.
3 Otherwise, this record is not worth anything.

4 So with that --

5 BY MR. FINDLAY:

6 Q Let me just ask Mr. Reitze: If you don't
7 understand a question I ask, feel free and please do tell me
8 you don't understand. Ask me to rephrase it; is that okay?

9 A Sure.

10 Q Regardless as to whether Mr. Paretti understands
11 the question or objects to the question, you will answer it;
12 is that okay?

13 A If I can.

14 Mr. Paretti. Right.

15 Mr. Findlay. Fair enough. Fair enough.

16 I'm going to ask that this next exhibit be marked.

17 [Reitze Exhibit No. 3
18 was marked for identification.]

19 BY MR. FINDLAY:

20 Q Mr. Reitze, you have got in front of you what has
21 been marked exhibit 3.

22 Mr. Paretti. Patrick, before you begin examination, I
23 notice this has got a different Bates designation. Can you
24 also tell me who produced these documents?

25 Mr. Findlay. This was produced by the Mine Safety and

1 Health Administration.

2 Mr. Paretti. Okay. Thank you.

3 Mr. Findlay. You also have a copy.

4 Mr. Paretti. Yes, I'm not doubting that. I'm just
5 recognizing the different designations.

6 BY MR. FINDLAY:

7 Q Take a look at this e-mail, if you would, and tell
8 me if you remember receiving this e-mail.

9 A I do not.

10 Q If you look at the "cc" field at the top of this
11 e-mail, is that how your name appears when you --

12 A Yes.

13 Q Do you have any reason to believe you did not
14 receive this e-mail?

15 A No.

16 Q Will you turn to the last page. It's the
17 Bates Stamp ending in 923. I'll ask you to take a moment
18 just to read the full paragraph there to yourself.

19 A Okay.

20 Q Does this help refresh your recollection of whether
21 you may have received this e-mail or not?

22 A Not really, no.

23 Q Do you remember ever discussing the March bump, in
24 your phone calls regarding the March bump, with Mr. Knepp?

25 Mr. Paretti. Objection. Have we established that there

1 was a bump in March?

2 Mr. Findlay. I'm not sure this witness would know.

3 Mr. Paretti. Right. Well then, you can't ask him.

4 Mr. Findlay. I can ask him if he discussed a bump and
5 whether the bump happened or not.

6 Mr. Paretti. Yes, you can ask if he discussed a bump.
7 Let's just be careful here. There is nothing we've
8 established that any bump has occurred. I'm not saying it
9 did or didn't. I certainly don't know. I mean I'm not
10 trying to be difficult, seriously, but I would like to just
11 be careful with the questioning. We're sort of playing a
12 little bit loose here. You're asking him whether he has
13 heard of something, and we have no evidence that has
14 established whether it has. So, if you want to ask him if he
15 learned of such a thing, you know, lay the predicate for
16 those questions. I have no problem. I have a problem sort
17 of --

18 Mr. Findlay. Mr. Paretti, I'll direct you to refresh
19 your recollection of rule 24, specifically "any objection
20 made during a deposition must be stated concisely and in a
21 non argumentative and non suggestive manner."

22 Mr. Paretti. Nothing about that -- strike that.

23 Nothing about that objection was argumentative, and I
24 stated it as concisely as I was able. I wanted to give you a
25 full understanding of what my concern was nor was it meant to

1 be suggestive.

2 BY MR. FINDLAY:

3 Q Mr. Reitze, regardless as to whether a bump did or
4 did not happen at the Crandall Canyon Mine in mid-March, did
5 you ever discuss anyone's telling you that a bump did or did
6 not happen at the Crandall Canyon Mine, in the middle of
7 March, with Mr. Knepp?

8 A Did I discuss it with Mr. Knepp in the middle of
9 March? Is that what you're asking?

10 Q Did you discuss it at any time?

11 A Up until today, do you mean?

12 Q Yes.

13 A I'm sure we have.

14 Q Do you recall over the course of the months between
15 March and now what you may have told Mr. Knepp?

16 A I probably did tell him that I received that
17 voice mail on that Monday evening. In fact, I know I did. I
18 told him about that. I don't remember when I told him about
19 that, but I did tell him about that, yes.

20 Q Okay. What do you recall you told him about that
21 voice mail?

22 A I told him that Jim -- well, the voice mail -- I
23 told him that Jim Poulson called and was going to send a map
24 in and wanted to discuss some things. That's what -- as I
25 recall, that's what my notes said. In looking back at my

1 notes, that's what -- his e-mail was not very specific -- or
2 the voice mail. I'm sorry. The voice mail was not very
3 specific.

4 Q So --

5 A It was not until the following day when the others
6 called that it became a little bit more specific.

7 Q So, just to get the chronology, Mr. Poulson left
8 his voice mail the day before?

9 A On Monday evening -- I don't know. I think it was
10 just around 4:00 o'clock.

11 Q And this was the Monday evening before March --

12 A The Tuesday morning that Laine Adair called a few
13 times.

14 Q So it was March 11th that Jim Poulson's voice mail
15 was left for you?

16 A I don't have a calendar in front of me.

17 Mr. Zola. That's Sunday.

18 Mr. Paretti. Would you care to show the witness.

19 Mr. Zola. Yes, here.

20 The Witness. It was a Monday evening, is when the -- it
21 must have been Monday evening, the 12th, is when Jim Poulson
22 left me the voice mail. Tuesday was when I actually talked
23 to somebody.

24 BY MR. FINDLAY:

25 Q Okay. Now, in the voice mail, did Mr. Poulson talk

1 about moving the evaluation point because of a bounce? Did
2 he talk about the ground conditions?

3 A I don't recall that being in the voice mail.
4 Again, I don't have my notes in front of me, but that's -- as
5 I recall, he said he was going to send in a map regarding
6 Crandall Canyon, and he wanted to talk about it. There was
7 not a whole lot that I can -- I mean, again, that just came
8 out of my notes, so --

9 Q You don't recall telling Mr. Knepp that the
10 voice mail talked about moving the evaluation point because
11 of a bounce in ground condition?

12 Mr. Paretti. Objection.

13 The Witness. I don't think the voice mail said anything
14 about that.

15 BY MR. FINDLAY:

16 Q Okay. So, to consolidate and to make sure I have
17 it clear, on Monday night, the 12th, Jim Poulson left you a
18 vague voice mail saying he was going to send you a map, and
19 they'd be back in touch the next day?

20 A As I recall what my notes said, I'd say that's
21 correct.

22 Q Now, you say as you recall what your notes said.
23 Is that your recollection of it? We want your recollection
24 of what happened then, not necessarily your recollection of
25 what was written in your notes.

1 A Well, that's the only thing that really can jog my
2 memory is what I've got written in my notes. To be able to
3 remember something that's almost a year ago is very difficult
4 with all the phone conversations and discussions and e-mails
5 and things that go on in a year's period of time.

6 Q Fair enough. Then Tuesday morning, do you remember
7 what time you received the first phone call from Mr. Adair?

8 A It was pretty early. I hadn't been in the office
9 very long, so 7:00, 7:30, somewhere in that ballpark.

10 Q And you had already listened to the voice mail that
11 came in earlier?

12 A Yes.

13 Q In that call, they indicated they wanted to move
14 the MPL?

15 A Correct.

16 Mr. Paretti. Objection.

17 BY MR. FINDLAY:

18 Q And it was during that call that you told them
19 "no"?

20 A Correct.

21 Q Then it was also during that call that they said
22 they would then seal the mine?

23 Mr. Paretti. Objection; vague, form.

24 The Witness. I had several -- I had several phone calls
25 that day from them, and it was in one of those phone calls

1 during that day that they said that. I believe it was the
2 first one, but --

3 BY MR. FINDLAY:

4 Q Did you discuss with them at all, with anyone from
5 Crandall Canyon Mine operator, on any of these calls that
6 day, whether the bumps they were referring to or the bump
7 they referred to was a reportable event?

8 A No.

9 Q Did you discuss the phone conversations you had
10 that day with Al Davis that day?

11 A Yes.

12 Q You did. What did you tell him on that day about
13 the phone conversations?

14 A The issue was sealing the area. At that time,
15 there were no seals that were approved for this operator to
16 use, and so they wanted to seal the area. So I called
17 Mr. Davis, and he, in turn, talked to Mr. Fredland, who was
18 in charge of tech support -- or in charge of that portion of
19 tech support that was reviewing seals.

20 Q Now, you say Mr. Fredland. Is that John Fredland?

21 A Yes.

22 Q What is his position, if you know?

23 A At that time, he was in charge of the group that
24 was reviewing the seal submittals for approval.

25 Q Is he located in Denver or --

1 A No. He is in -- I believe he is in Bruceton, I
2 believe, Bruceton, Pennsylvania.

3 Q Is he part of a district's staff or --

4 A No.

5 Q No.

6 A Pittsburgh Technical Support.

7 Mr. Findlay. I'm going to have the court reporter mark
8 the next exhibit, please.

9 [Reitze Exhibit No. 4
10 was marked for identification.]

11 BY MR. FINDLAY:

12 Q I'll ask you to take a look at what has been marked
13 Exhibit 4. Tell me whether you recall receiving this e-mail.

14 A Specifically, no. I remember the subject, but
15 specifically this e-mail, no.

16 Q You have no reason to believe you didn't?

17 A That is correct.

18 Q So walk me through the timeline if you would.

19 You had had your conversations with the mine operator
20 and their employees, and they told you they wanted to seal
21 the mine. Then you went to Mr. Davis and relayed that
22 information to him?

23 A I called him and relayed that information to him.

24 Q Now, you say he called Mr. Fredland?

25 A No. He talked personally to Mr. Fredland.

1 Mr. Davis was Back East, back here in West Virginia. I
2 called him from Denver.

3 Q Okay.

4 Mr. Paretti. I'm going to interject on this exhibit. I
5 notice there's no Bates number. Can you tell me by whom this
6 exhibit was produced?

7 Mr. Findlay. Sure. This was produced by the Department
8 of Labor as an electronic e-mail file. It was not Bates
9 stamped. We had to print it off of the system.

10 Mr. Paretti. Okay. Do we have this document?

11 Mr. Findlay. Yes.

12 Mr. Paretti. Okay. Thank you.

13 Mr. Findlay. I think now would be a good time to break
14 unless anyone objects.

15 Mr. Paretti. No. That works.

16 Mr. Findlay. Okay. We'll go off the record and take a
17 short break.

18 [Recess.]

19

20

21

22

23

24

25

1 RPTS [REDACTED]

2 DCMN [REDACTED]

3 [11:16 a.m.]

4 Mr. Findlay. We will go back on the record.

5 Just to note for the record, Mr. Paretti has stipulated
6 at this point he does not have any questions, and he will
7 wait to ask his questions on behalf of the minority until
8 after the majority has finished our examination.

9 Is that correct, Mr. Paretti?

10 Mr. Paretti. Correct. As we discussed off the record,
11 we will reserve the balance -- our time will be the time you
12 take for your direct examination. I don't expect to use that
13 time, but just so there is no misunderstanding that, "Oh, you
14 took an hour, I didn't take an hour." If you go for another
15 15 minutes and say, "Oh, I only took 15," I will get the hour
16 and 15.

17 Mr. Findlay. I will stipulate you can have as long as
18 you like.

19 Mr. Paretti. Careful on that stipulation. Let's
20 proceed. No, we understand each other.

21 BY MR. FINDLAY:

22 Q All right. Mr. Reitze, you referred back to your
23 notes a number of times that you went over to refresh your
24 recollection. Would you describe to us your note-taking
25 practices?

1 Mr. Paretti. Objection. Did he say that he -- I object
2 that you are characterizing -- I did not hear him testify
3 that he refreshed his recollection with his notes. I heard
4 him --

5 Mr. Findlay. Fair enough.

6 BY MR. FINDLAY:

7 Q Mr. Reitze, when you prepared for today's
8 deposition, did you refresh your recollection by reviewing
9 notes?

10 A Yes.

11 Q And they were your notes?

12 A Yes. Just for part of the time. Not for the last
13 2 years, no.

14 Q And you mean, "part of the time," notes of yours
15 spanning a certain time period?

16 A Correct.

17 Q And that time period was March, I believe you said?

18 A Correct.

19 Q Of last year?

20 A Yes.

21 Q Okay. And at least for those notes, the March of
22 2007 notes, would you describe your practice in taking the
23 notes?

24 A Generally, I try to write down every time somebody
25 either leaves me a voicemail or a phone call. And then if

1 there are any specific meetings with outside people,
2 personnel, like mine operators or something, then I will take
3 notes from that.

4 Q But it is not your practice to take notes on
5 voicemails, calls, meetings with internal MSHA folks?

6 A Generally, that's true.

7 Q Okay. Do you make your e-mails part of your notes?

8 A No.

9 Q And what is your practice in keeping your notes,
10 retaining your notes?

11 A Pretty much the same as what we do for our mine
12 plans and things, which is 3 years plus current.

13 Q And so you have retained your notes from March of
14 2007?

15 A Yes. And I am sure you have a copy of them, as
16 well.

17 Q And you produced -- I say you produced, you turned
18 those over, or a copy of those over to the MSHA attorneys?

19 A Yes.

20 Q Okay. And I am sorry to harp on this one
21 voicemail, but the voicemail that was left Monday, March
22 12th, 2007, by Mr. Adair to you --

23 A No.

24 Mr. Paretti. Objection. I don't think it was left --

25 Mr. Findlay. You are right. Strike that.

1 BY MR. FINDLAY:

2 Q The voicemail that was left by Mr. Poulson to you
3 on that Monday night?

4 A Okay.

5 Q Is that --

6 A That's correct.

7 Q And you have that in mind. Now, that voicemail,
8 what phone number was that voicemail left at?

9 A I am not sure. You mean --

10 Q When he called to leave it, was it your personal
11 voicemail account? Was it an office-wide voicemail account?

12 A No, it was my office phone.

13 Q Okay. So you were the only person who would be
14 able to, in the normal course of business, retrieve messages
15 from that voicemail machine?

16 A Yes.

17 Q Did you keep that voicemail?

18 A No.

19 Q Would you have deleted it right after you had
20 listened to it?

21 Mr. Paretti. Objection. Form of the question.

22 The Witness. I don't honestly remember. I probably
23 would have, yes. Right after I listened to it, I probably
24 got rid of it.

25 BY MR. FINDLAY:

1 Q So you would not have played it for anyone else, or
2 you don't recall playing it for anyone else?

3 A Not that I know of.

4 Q Okay. When you had the subsequent -- strike that.
5 That voicemail, or this same voicemail, when did you listen
6 to it, if you recall?

7 A The next morning.

8 Q On the subsequent phone calls that day, was anyone
9 from MSHA on those calls with you?

10 Mr. Paretti. Objection. Broad.

11 The Witness. Jeff Fleshman could have been.

12 BY MR. FINDLAY:

13 Q But you don't recall --

14 A Specifically, unless I wrote it down in my notes, I
15 don't recall.

16 Q Did you speak -- and now I am talking about the
17 13th, 14th, 15th of March, 2007, did you speak with Billy
18 Owens about the voicemail and subsequent conversations you
19 had with Crandall Canyon mine operators?

20 Mr. Paretti. Objection. Form and compound question.

21 The Witness. Possibly. I don't remember specifically.
22 Very possibly I did.

23 BY MR. FINDLAY:

24 Q Is it your normal practice to talk to Billy Owens
25 about changes in MLPs?

1 A MPLs.

2 Q MPLs?

3 A No.

4 Q And that's because that's outside of his --

5 A He deals primarily with roof control, ground
6 control issues. If there was a ground control thing that I
7 had a concern with, I might have talked with him.

8 Q Do you remember whether you had a concern about a
9 ground control issue at that time?

10 A I didn't, no.

11 Q And so all of your conversations at that time, the
12 13th, 14th, with the operator at Crandall Canyon mine didn't
13 lead you to believe there were any ground control issues?

14 A Specific ground control issues, no.

15 Q When you say --

16 A Not that I know -- not that I remember, no.

17 Q When you say "specific," were there any general
18 ground control issues?

19 A Generally, when there is a bounce or something like
20 that at a mine, sometimes I will go and talk to them about
21 it. But I don't remember whether I did this time or not,
22 whether he was even in the office or not that day.

23 Q In the subsequent days and weeks, did you discuss
24 the, what we will call, the March bump with Billy Owens?

25 A I probably did after all of this started to happen.

1 Q When you say "all of this" --

2 A After the accident.

3 Q But you don't recall having any conversation before
4 the accident?

5 A Specifically before or after, no, I don't remember
6 what time frame I had those discussions, no.

7 Q Okay. So you did have discussions. You just don't
8 remember whether it was prior to or after August 6th of 2007?

9 A Correct.

10 Q Whenever they occurred, what was the general
11 content of those discussions?

12 A The ones that I can recall were the issues of the,
13 I guess, the severity. So that would have been after the
14 accident, when some of these other investigations and things
15 started up.

16 Q And you say that would have been after -- a
17 discussion of the severity would have been after the
18 accident?

19 A In August.

20 Q Right. But because the severity of the March bumps
21 wasn't an issue before August?

22 Mr. Paretti. Objection. He didn't say anything of
23 that.

24 Mr. Findlay. I am asking.

25 Mr. Paretti. Then ask a question. Objection to the

1 form. Leading question. Ask your question.

2 BY MR. FINDLAY:

3 Q Was the severity of the March bump an issue in your
4 mind before August 6th, 2007?

5 A No.

6 Q And it is your general practice to not talk about
7 nonissues? Is that a fair enough statement? Strike that.

8 Mr. Paretti. That's good.

9 BY MR. FINDLAY:

10 Q Since August 6th, you have spoken to Billy Owens.
11 Strike that.

12 Why since August 6th has the severity of the March bumps
13 become important, to your mind?

14 Mr. Paretti. Objection.

15 Mr. Findlay. What is the objection?

16 Mr. Paretti. Leading. Leading the witness.

17 Mr. Findlay. Let's go off the record, please.

18 [Discussion off the record.]

19 BY MR. FINDLAY:

20 Q Did the severity of the March bump ever, to your
21 mind, become an important issue?

22 A Eventually. I mean, after you guys all started
23 doing all your investigations, it appeared that something --
24 I didn't know about the severity of it until just fairly
25 recently.

1 Q Okay. When you say you didn't know about the
2 severity, that's because they didn't tell you, "they" being
3 the operator of Crandall Canyon mine, did not tell you of the
4 severity of it prior to August of last year?

5 A Correct.

6 Q And nothing they said would have led you to believe
7 that it was a severe bump prior to August of last year?

8 A There is an issue with severity.

9 Q Sure.

10 A You know. I mean, a bump or a bounce can be
11 anywhere from a [strikes table], like that, all the way up to
12 a nationally historic Guinness Book of World Records type of
13 bounce, which is what occurred at Crandall. And there are
14 all severities in-between [strikes table] and that.

15 Mr. Paretti. Let the record show that, to demonstrate
16 the range of bumps, the witness has tapped his finger on the
17 table.

18 Mr. Findlay. Was that an objection, Mr. Paretti?

19 Mr. Paretti. No, no, no objection. I just want the
20 record to be clear, because he is making physical gestures
21 that the transcription can't pick up.

22 Mr. Findlay. I would ask you to refrain from speaking
23 unless you are making an objection.

24 Mr. Paretti. Well, I am not going to honor that
25 request, so you can continue your examination. I asked that

1 the record show what the witness's physical manifestation was
2 that the transcription could not pick up. As you asked him
3 to do earlier this morning, as if he were to nod his head, I
4 would expect you to say, "Let the record show that the
5 witness has nodded," or ask him to answer the question in
6 terms, in words.

7 The Witness. Okay. What I did was I just bumped on the
8 table to make a noise. It can go from that up to national
9 historic severity.

10 BY MR. FINDLAY:

11 Q Fair enough. And the national historic severity
12 bump you were talking about is the August 6th bump?

13 A Correct. And everything in between.

14 Q Now, you say the severity of the March bump became
15 an issue after -- and I think you said something to the
16 effect of, and correct me if I am wrong -- you all began
17 looking at these issues?

18 A Yes.

19 Q Did the August 6th bump raise any flags or
20 questions in your mind as to the potential relevance or
21 severity of the March bump?

22 A At what point in time?

23 Q Fair enough. Let's say in the immediate aftermath
24 of the August 6th bump, that day or the next day?

25 A No.

1 Q Do you recall what, in particular, raised or
2 elevated the importance of the March bump in your mind?

3 A I believe it is when people started asking
4 questions about that in particular.

5 Q You never offered that as a potentially important
6 event on your own before being asked by anyone?

7 Mr. Paretti. Objection. Form.

8 The Witness. I honestly don't recall.

9 BY MR. FINDLAY:

10 Q Fair enough. Give me one second, if you would.
11 Do you recall receiving a ventilation plan for the
12 Crandall Canyon mine in July of last year?

13 A It is possible.

14 Q It is possible.

15 Would the court reporter mark this Exhibit 5?

16 [Reitze Exhibit No. 5
17 was marked for identification.]

18 BY MR. FINDLAY:

19 Q And if you would, please take a look at Exhibit 5.
20 Tell me whether you recognize it.

21 While you are looking through it, I will just note for
22 the record this was produced by Murray Energy Corporation,
23 and the minority also has a copy of this document.

24 A I don't specifically recall this one, no. They
25 could have submitted it, but I don't specifically recall it,

1 no.

2 Q Do you recall any -- let me go back. The cover
3 e-mail for this, the very first page of Exhibit 5, it
4 indicates it was carbon-copied to you. Do you have any
5 reason to believe you didn't receive this e-mail?

6 A No.

7 Q And this is the general form of a site-specific
8 ventilation plan?

9 A Yes.

10 Q Now, forgive me if I have asked this already, but
11 you do or do not recall receiving any ventilation plan for
12 Crandall Canyon mine in July of '07?

13 Mr. Paretti. Asked and answered.

14 Mr. Findlay. I have already apologized for --

15 The Witness. I don't remember whether -- no, I don't
16 remember specifically this amendment or having received
17 anything specifically in July.

18 BY MR. FINDLAY:

19 Q So I take it you don't remember recommending
20 approval of any ventilation plan in July of '07?

21 A Right. I don't believe this was ever approved. I
22 don't believe we acted on it yet.

23 Q Now, you say you don't believe this was approved,
24 but you don't actually have any recollection that this was
25 ever submitted?

1 A Right. Because I have never -- I don't remember
2 seeing it before. That's why I said that.

3 Q Okay. As far as you can recall, there has been no
4 ventilation plan approved at the Crandall Canyon mine since
5 March of 2007 through the present?

6 A I don't remember -- whatever the date was that the
7 retreat mining on the south barrier occurred. And I don't
8 remember what that date is.

9 Q Do you remember generally a season, a month?

10 A Well, it was in the late winter, early spring of
11 2007.

12 Q And I know you haven't attested to this, but I have
13 just a few questions. If you would turn to the page ending
14 in 91, it is the third page of the exhibit. On the second
15 paragraph, it says, "The bleeder system proposes is a
16 wrap-around bleeder type." What is a wrap-around bleeder
17 type, if you know?

18 A What that is is where the air flows through the
19 area that has been pillared to the back, and then it comes
20 back around and in parallel to the area that was pillared,
21 and back out past where the face is working.

22 Q You say "it," meaning the air goes around?

23 A The air. The air wraps around basically a set of
24 ventilation devices and comes out parallel to the gob area,
25 the area that has been pillared.

1 Q Do you recall any time after March of 2007
2 discussing with anyone representing Crandall Canyon mine or
3 the operator any potential submission of a ventilation
4 control plan, or that they -- or any discussion whatever of
5 ventilation control plans?

6 A I mean, that's a possibility. I don't specifically
7 recall that, no. But, I mean, that is a possibility.

8 Q Now, I would like to shift our focus a little bit
9 to August 6th onward.

10 My first question is, what was your role, if any, in the
11 rescue attempts that were undertaken after the bounce on
12 August 6th?

13 A I was in a supporting role in the district office.

14 Q You stayed in Denver?

15 A Yes.

16 Q And when you say supporting role, could you flesh
17 that out just a little?

18 A Basically, any time when headquarters or somebody
19 asked for something, then I tried to assist in getting what
20 they needed.

21 Q And that was your role from August 6th through the
22 termination of the rescue efforts?

23 A Correct.

24 Q When you say anything, would this be roof
25 control-type issues or strictly ventilation control issues?

1 A Because Billy Owens was there, that would then be
2 ventilation-related issues. But we also deal with the maps.
3 And there were some maps that needed to be provided to
4 headquarters, for instance, that we did.

5 Q By maps, you mean the mine map?

6 A Right.

7 Q When you say that you did, what do you mean a map
8 that you did?

9 A A map that the operator would have submitted that
10 we would have scanned in so that we could send it to
11 headquarters for their use.

12 Q Did you, as a general practice, receive maps in an
13 electronic format from the mine operators or in some other
14 format?

15 A Full-blown mine maps we don't receive that way. I
16 mean, we may have received one in the last 10 years, but --

17 Q Which way?

18 A Electronically. A full-size mine map we don't
19 receive that way.

20 Q You receive it in hard copy?

21 A Right.

22 Q Now, are there any types of mine maps or subsets of
23 mine maps that do you receive electronically?

24 A Well, the example that you sent to me, that's a
25 portion -- or that you provided to me here, that's a portion

1 of a mine map. - And we get these kind of things, a small
2 portion of one maybe.

3 Q And what format would those come into you as?

4 A PDF.

5 Q So you don't receive AutoCAD or anything, any of
6 that similar format?

7 A No, we don't really have any way to handle AutoCAD
8 drawings.

9 Q You know what AutoCAD drawings are?

10 A Yes.

11 Mr. Malecki. May the record show that the witness was
12 referring to your Exhibit 5?

13 Mr. Findlay. Sure. And I believe the third, fourth,
14 fifth pages.

15 BY MR. FINDLAY:

16 Q Are you aware of various drill holes being drilled
17 during the rescue efforts?

18 A I am aware of them, yes.

19 Q Did you have any role in approving them or any role
20 whatsoever --

21 A I did not.

22 Mr. Paretti. Objection.

23 Mr. Findlay. What was the objection?

24 Mr. Paretti. Predicate.

25 Mr. Findlay. He is aware of them. I was asking --

1 Mr. Paretti. He was aware of them. You asked if he had
2 a role in approving them. I don't know if we established
3 that drill holes were something that were approved or not
4 approved. That's my objection.

5 BY MR. FINDLAY:

6 Q Are you aware of whether the drill holes were
7 approved or not approved?

8 A I am not, no.

9 Q And you had no role whatsoever either way?

10 A I had no role in any part of the drilling program.

11 Q Now, in September, after the rescue efforts were
12 called off, are you aware of any efforts to seal the Crandall
13 Canyon mine?

14 A I am not sure what you are -- I don't know what you
15 mean by efforts to seal.

16 Q I guess I will ask you this. Do you know whether
17 the Crandall Canyon mine is sealed today?

18 A It is not sealed with official or legal seals right
19 now today, no.

20 Q Okay. And how do you know that?

21 A Because I was told that from the field office and
22 from Al Davis.

23 Q When you say it is not sealed with official seals,
24 is it sealed with any other sort of seal?

25 A It is not a seal, what they are using right now, as

1 I understand it. It's basically a block stopping.

2 Q Have you ever reviewed -- strike that. Have you
3 reviewed, since September of 2007, any request to seal the
4 Crandall Canyon mine?

5 A To seal it with official seals, I don't think I
6 have, no.

7 Q Any request to seal it in any other --

8 A Well, again, those stoppings -- I believe I wrote
9 the letter to say that was acceptable to use those stoppings.

10 Q Okay. Do you recall what that letter was in
11 response to? Was there a request?

12 A I think there were issues -- as far as I know,
13 there were issues that -- between the U.S. Forest Service and
14 that being a trail head, and they didn't want to have the
15 public exposed to any atmosphere that could potentially come
16 out of there. And rather than using, say, chain-link
17 fence --

18 Q And you mean a trail head --

19 A U.S. Forest trail head.

20 Q Near the entrance to the Crandall Canyon mine?

21 A Correct.

22 Q A hiking trail, I take it?

23 A Correct.

24 Q Do you ever have any interaction with -- and this
25 is a general question -- any interaction with Bureau of Land

1 Management staff in the course of your duties?

2 A No.

3 Q In particular regarding Crandall Canyon mine from
4 March 2007 through August 2007, did you have any interaction
5 with Bureau of Land Management staff?

6 A No.

7 Q Do you ever review Bureau of Land Management
8 documents related to mines?

9 A No.

10 Q As far as you know, you never provide your
11 documents to the Bureau of Land Management?

12 A That's correct.

13 Q How long have you known Laine Adair?

14 A When did I first meet him? Is that what you are
15 asking?

16 Q Yes.

17 A I don't know, probably within the last 20 years,
18 while I have been with this agency.

19 Q And has your interaction with him always been
20 related to Crandall Canyon mine or --

21 A No.

22 Q No. What other interactions have you had with Mr.
23 Adair?

24 A The company that owns those own several mines. And
25 since all ventilation for our district goes through me to go

1 on up the ladder, it would have been at any one of those
2 mines.

3 Q And those other mines include Tower mine, West
4 Ridge mine, is that --

5 A It would include Aberdeen mine, West Ridge mine,
6 Pinnacle mine, South Crandall Canyon, and Crandall Canyon.

7 Q So you have dealt with him on all of those mines?

8 A Probably so, yes.

9 Q And can you narrow it down a little more than just
10 the past 20 years? Is it about 20 years ago?

11 A Well, I started working for MSHA almost 21 years
12 ago, so it would have been sometime after that when I would
13 have started dealing on some of these different mines,
14 working with some of these mines.

15 And, again, whether Laine Adair was initially involved
16 in the plan approval process, I would say he probably was not
17 at that -- you know, 20 years ago. But I don't know. I am
18 sure at least the last 10 I have dealt with him on a periodic
19 basis.

20 Q And how often or on what basis have you dealt with
21 Jim Poulson?

22 A Jim Poulson is the one that generally -- either Jim
23 Poulson or Tom Hurst are the ones that generally have
24 provided the plans for us to review. But Jim Poulson hasn't
25 been with Andalex Resources, Utah American, whatever you want

1 to call it now, for that long. He has only been there a few
2 years.

3 Q Now, you say Andalex Resources. Is it your
4 understanding that Crandall Canyon mine is operated by
5 Andalex Resources, which is a subsidiary of Utah American?
6 Is that why you --

7 A Andalex Resources is owned -- as far as I know, is
8 owned by GENWAL Resources, which is a subsidiary of, at one
9 point in time, Andalex Resources. And now I believe it is a
10 subsidiary of Utah American.

11 Q So you use those all as interchangeable for --

12 A We usually talk about the specific mine. We don't
13 usually deal with company names.

14 Q And what sorts of interactions have you had in the
15 past with Mr. Peacock, Gary Peacock?

16 A Almost none.

17 Q Do you recall in the last, say, 5 years any
18 instances where you have interacted with Mr. Peacock?

19 A He was --

20 Mr. Paretti. Objection. Can you clarify what you mean
21 by interaction? Define that term. What are you asking him?

22 The Witness. He was on one of those phone
23 conversations, I believe, that I had with Laine Adair in
24 March.

25 Q In the March phone conversations?

1 A One of them. I don't think he was on all of them,
2 but I believe he was on one of them.

3 Q Prior to that, had you had any dealings,
4 interactions, conversations with Mr. Peacock?

5 A I don't believe so.

6 Q And did it strike you as odd that Mr. Peacock would
7 be on one of the phone calls that you had with Laine Adair
8 regarding the March bump?

9 A No.

10 Q And did you have any interactions, conversations,
11 correspondence with Mr. Peacock after March of 2007?

12 A I don't believe I have, no.

13 Q So as far as you can recall -- and, of course,
14 memory is subject to failure at times -- you have only had
15 one interaction with Mr. Peacock?

16 A As far as I know. As far as I can remember.

17 Q Now, I apologize for doing this, but just to circle
18 back, the three, the four subordinates you have, could you
19 just go through them one more time and tell me when they
20 started working for you?

21 A When they started working for me? Jeff Fleshman,
22 and I believe he started working for me in '92, when I got
23 the job, I believe.

24 Sid Hansen started after that, whenever Denver tech
25 support closed down, and we were able to pick him up as a

1 ventilation specialist. I don't remember what the date was
2 that Denver tech support closed down. It was in the '90s
3 sometime, '95, '97, '98, somewhere in that ballpark.

4 Hillary Smith is relatively new. She has probably
5 got -- I can't remember whether she just turned over 3 years
6 or 4 years with the agency.

7 And then the fourth person is my administrative
8 assistant.

9 Q Again, I apologize for perhaps beating a dead
10 horse, but as far as you can remember, did anyone at the
11 mine, at Crandall Canyon mine, tell you why they were
12 concerned with someone walking the bleeder after the March
13 bump?

14 A I don't know, I think I answered that, but they
15 said that they didn't want to go back and resupport the areas
16 to comply with the law. They didn't really want to go back
17 in and repair the ventilation devices.

18 Q And this was all said to you during those phone
19 calls on March --

20 A Correct. Correct.

21 Q What did you understand them to mean when they said
22 they didn't want to repair the ventilation structures? Is
23 that the right --

24 A Yeah.

25 Q What did you take that to mean?

1 A That they had some issues with their ventilation
2 structures, and they didn't want to go back and rebuild those
3 with permanent devices. They wanted to go back and use
4 curtains or something like that and just slap them up.

5 Q And you say curtains. Are curtains ever a
6 replacement for a permanent device?

7 A In the right situation, I suppose.

8 Q And this was not?

9 A No.

10 Q This, being the March bump, was not the right
11 situation?

12 A No.

13 Q What led you to that conclusion? What led you to
14 the conclusion that in March 13th, 14th, thereabouts, that
15 using curtains was not an appropriate solution to the --

16 A To be able to maintain a good wrap-around bleeder
17 system, it becomes very critical that those ventilation
18 devices are in place. A permanent ventilation control is one
19 that will hold up a whole lot better, that is stronger than
20 just a curtain. And it is more flame-resistant and all of
21 that. And we just don't accept the use of a curtain, which
22 is more of a temporary type of a control, for a permanent --
23 for a location where a permanent is required.

24 Q And no one at the mine or representing the mine
25 ever said anything that would lead you to believe or would

1 have led you to believe that safety was an issue that was
2 causing them concern at that time?

3 Mr. Paretti. Objection. That's very vague.

4 The Witness. They didn't want to have somebody travel
5 back there, is what they said. So that, I guess you could
6 have concluded from that that there could have been a safety
7 issue associated with that.

8 BY MR. FINDLAY:

9 Q Would that have led you to believe that they were
10 concerned with the safety of anyone other than the individual
11 or individuals who would be walking the bleeder?

12 Mr. Paretti. Objection. You are asking him now to
13 ascertain what the thought processes were of people on the
14 other end of the line. He is capable, he is competent to
15 testify what he thinks. He is competent to testify as to
16 what he was told. He is not competent to testify what was
17 going through their heads.

18 BY MR. FINDLAY:

19 Q And if I asked you to tell me what was going
20 through their heads, I apologize. But I am concerned with
21 how you took it. Did you take them to be concerned with the
22 safety of anyone other than the person walking the bleeders?

23 A No. They wanted to continue to mine. That's what
24 they wanted to do initially.

25 Q And you know that because that's what they told

1 you?

2 A Correct.

3 Q And by continue to mine, you mean continue to mine
4 the north barrier?

5 A Correct.

6 Q And it was your understanding that moving the MPL
7 or allowing them to use curtains would have enabled them to
8 continue mining the north barrier?

9 A I am not sure I -- that question, I -- you said
10 several things in there, and it is not -- I did not want them
11 to move the MPL, because if they moved the MPL they couldn't
12 determine the effectiveness of the bleeder system
13 appropriately. And because they couldn't determine the
14 effectiveness of the bleeder system appropriately, by moving
15 it out to the pillar line, as far as I am concerned, that's
16 not acceptable.

17 Q Subsequent to March of '07, have you come to any
18 understanding as to the severity of the March bump?

19 A I have heard that it was pretty severe.

20 Q And who have you heard that from?

21 A Some of the investigative teams.

22 Mr. Paretti. Objection. Withdrawn.

23 Mr. Malecki. I am going to instruct the witness not to
24 divulge anything additional about the accident investigation
25 teams, including any hearsay of what somebody might have told

1 you about what the accident investigation teams did.

2 Mr. Findlay. So you are instructing him -- he has just
3 answered.

4 Mr. Malecki. I am cautioning him -- I am cautioning him
5 that, if he were to give you additional information, to
6 tailor it to something that he learned other than from the
7 accident investigation teams.

8 Mr. Findlay. Sure. Fair enough. Fair enough.

9 BY MR. FINDLAY:

10 Q And however you have come to understand the
11 severity of the March bump, does your current understanding
12 of the March bump --

13 Mr. Paretti. Objection. Patrick, I am going to ask you
14 to clarify. The last question --

15 Mr. Findlay. I didn't finish my question.

16 Mr. Paretti. No, no. I am asking because the last
17 question you asked him I thought was about the August bump,
18 and then you seem to be continuing and asking now -- you
19 asked him about the severity of the August bump, and he began
20 to testify. Stay on the record. Would you just start your
21 question again?

22 Mr. Findlay. Sure.

23 BY MR. FINDLAY:

24 Q Without telling me how, for now, you have come to
25 any understandings of the severity -- have you come to --

1 strike that. Since March of '07, has your understanding of
2 the severity of the March bump changed?

3 A Somewhat, I suppose, yes.

4 Q How so?

5 A It sounds like it was a fairly severe bounce or
6 bump.

7 Q And your understanding during March was that it was
8 not a severe bump?

9 A It didn't concern me in March, no.

10 Mr. Findlay. Pass the witness to minority staff.

11 Mr. Paretti. I would like to take a 10-minute break.
12 We will come back and do an examination. Does that work?

13 Mr. Findlay. Sure. We will go off the record.

14 [Recess.]

15 Mr. Paretti. Back on the record.

16 I have no questions of the witness at this time.

17 Mr. Findlay. And we, of course, have no further
18 questions, and would like to thank you for being here.

19 We will go off the record.

20 [Whereupon, at 12:16 p.m., the deposition was
21 concluded.]

22

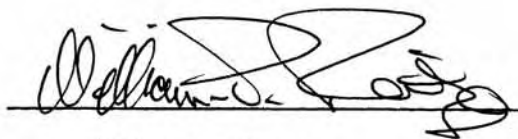
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Certificate of Deponent/Interviewee

I have read the foregoing 100 pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

A handwritten signature in black ink, appearing to read "William J. Rodriguez", is written over a horizontal line.

Witness Name

1	EDUCATION AND LABOR COMMITTEE			
2	DEPOSITION ERRATA SHEET			
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1 CERTIFICATE OF COURT REPORTER

2
3 UNITED STATES OF AMERICA)

4 DISTRICT OF COLUMBIA)

5
6
7 I, [REDACTED], Official Reporter, U.S. House
8 of Representatives and Notary Public in the District of
9 Columbia, certify that the witness appeared before me; that
10 the witness was duly sworn; that I was authorized to and did
11 stenographically report the proceedings in the above
12 transcript; and that the transcript is a true and complete
13 record of my stenographic notes.

14 I further certify that I am not a relative, employee,
15 attorney or counsel of any of the parties, nor am I a
16 relative or employee of any of the parties' attorneys or
17 counsel connected with the action to my knowledge, nor am I
18 financially interested in the action.

19
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 Notary Public in and for the District of Columbia

24 My commission expires: MARCH 14, 2012

25 [REDACTED]
Notary Public, District of Columbia
My Commission Expires 3/14/2012

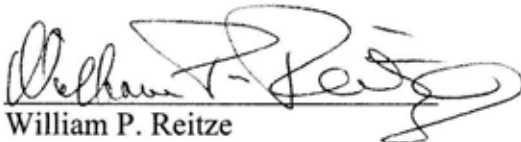
COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES
IN RE: CRANDALL CANYON MINE

AFFIDAVIT OF WILLIAM P. REITZE

I hereby declare as follows under the penalty of perjury that the following is true and correct to the best of my knowledge:

1. On pages 33 and 34 of the transcript of my deposition, taken February 15, 2008, I was asked what Mr. Jim Poulson said in his voice mail to me of March 12, 2007. I recounted what I remembered. Among other things, I stated that I did not think that the voice mail addressed the issue of moving the evaluation point because of a bounce in ground conditions. (34:9-11; 34:13-14). In the course of testifying, I noted that I did not have my notes in front of me. (See 34:4-5).
2. I have since reviewed my contemporaneous notes related to Mr. Poulson's voice mail left on March 12, 2007, which state, among other things, that Mr. Poulson stated that they "cannot get back to BMP due to bounce [sic] but do not want to seal immediately."
3. Based on my review of these notes, I wish to amend my testimony to state that I believe that Mr. Poulson also stated to me in the voice mail left on March 12 that the operator could not get back to the evaluation point due to a bounce, but did not want to seal the area immediately.
4. In reference to my testimony at 51:3-11, I wish to clarify that MSHA District 9 approved the Crandall Canyon ventilation plan amendment for development in the South Barrier on March 23, 2007 and for pillar extraction in the South Barrier on June 1, 2007. I have appended both plan amendments to this affidavit.

FURTHER DECLARANT SAYETH NOT.


William P. Reitze

Date: 3-7-08

Subscribed and sworn before me this
17th day of March, 2008


Notary Public

My commission expires:

10/30/2011

EXHIBIT

ONE

U.S. Department of Labor

Mine Safety and Health Administration
P.O. Box 25367
Denver, Colorado 80225-0367



Coal Mine Safety and Health
District 9

MAR 23 2007

Gary Peacock
General Manager
Genwal Resources, Inc
P.O. Box 1077
Price, UT 84501

RE: Crandall Canyon Mine
ID No. 42-01715
Ventilation Plan Amendment

Dear Mr. Leanord:

The enclosed plan amendment, dated March 20, 2007, consisting of a cover letter, one page of text, and four Plates, addressing development mining in the South Barrier of Main West, is approved in accordance with 30 CFR §75.370(a)(1). This amendment will be incorporated into the Ventilation Plan approved on July 27, 2006.

This amendment is site specific and will terminate upon completion of the project.

A copy of this approval shall be made available to the miners and reviewed with all miners affected by this plan.

Sincerely,

Allyn C. Davis
Allyn C. Davis
District Manager

Enclosure

cc: Tom Hurst

UtahAmerican Energy, Inc.



Crandall Canyon Mine
a subsidiary

Hwy31 MP 33, Huntington, UT 84528

PO Box 1077, Price, UT 84501

Phone: (435) 888-4000

Fax: (435) 888-4002

March 20, 2007

Mr. Allyn C. Davis
District Manager
Coal Mine Safety and Health
P.O. Box 25367
Denver, Colorado 80225

8660-B4-A13
RECEIVED
MAR 22 2007

USDOL - MSHA - CMS&H
DISTRICT 8

Re: Crandall Canyon Mine ID# 42-01715 Ventilation Plan Main West South Barrier

Dear Mr. Davis:

Please find attached for your review and approval, a ventilation plan for mining the South Barrier of Main West at our Crandall Canyon Mine. The plan consist of one page of text and 4 Plates.

Please contact me with any questions at [REDACTED].

Sincerely,

Tom Hurst
Mining Engineer
[REDACTED]



**Crandall Canyon Mine
MSHA ID Number 42-01715
Main West South Barrier Ventilation**

The mine is planning to develop entries into the south barrier of the Main West area. The steps to ventilate this area are outlined below:

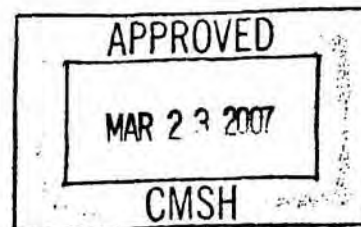
Plate 1, Existing Ventilation, shows the ventilation to exist after the Main West North Barrier is sealed.

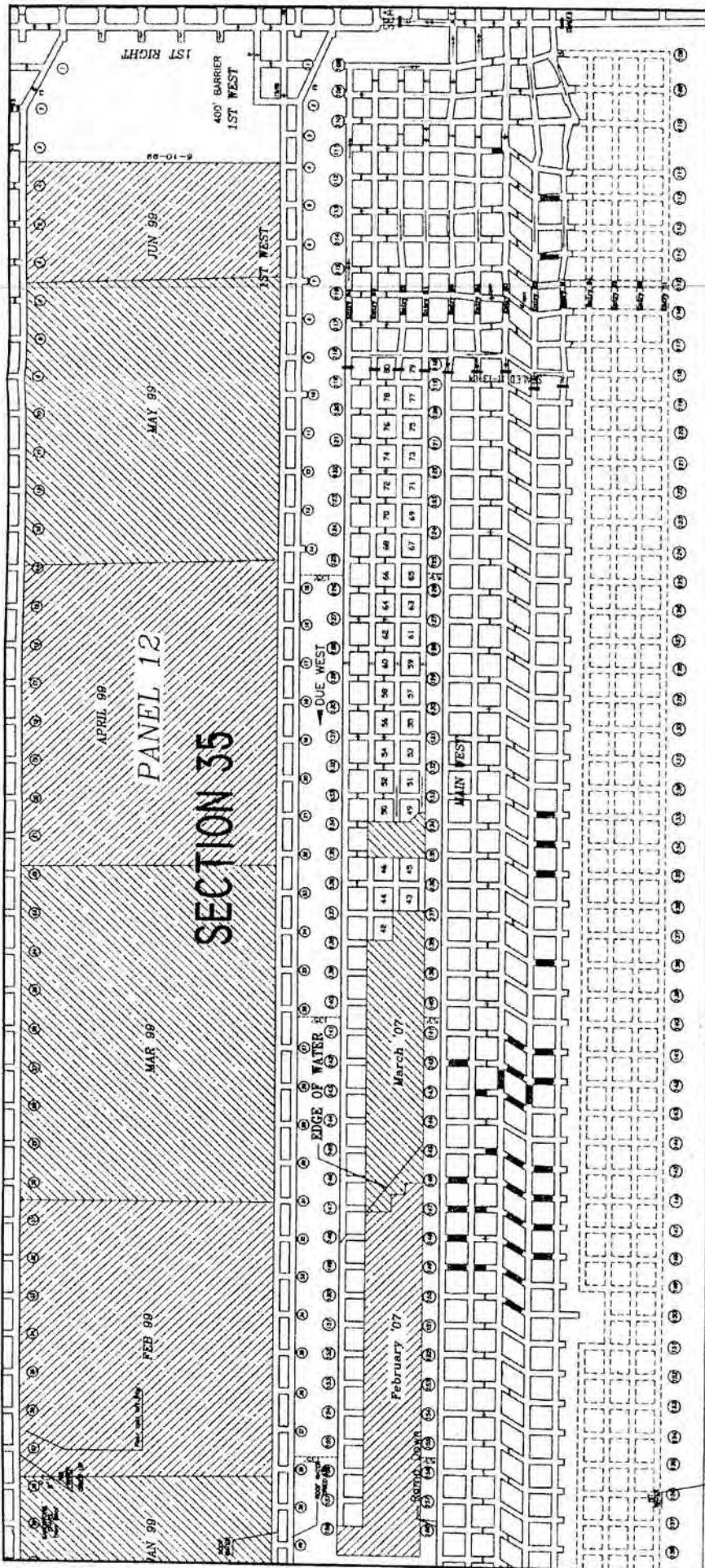
Plate 2, Set up Ventilation, is an intermediate step in to ventilate the mining of rooms to the south for initial placement of the section belt drives. The items to ventilate this phase are listed below:

- a. Remove stoppings between entries M2-M3 and M3-M4 at crosscut 114 of the Main West.
- b. Remove stopping between entries M2-M3 at crosscut 110 of the Main West.
- c. Construct stopping between entries M3-M4 at crosscut 110 of the Main West.
- d. Remove stopping in entry M4 between crosscuts 108 and 109 of the Main West.
- e. Remove stopping between entries N2-N3 at crosscut 111 of the north block of the Main West.
- f. Construct stopping with regulator in entry N3 between crosscuts 110 and 111 of the north block of Main West. Add regulator to stopping in entry M4 between crosscut 110 and 111.
- g. Construct belt box check in entry M3 between crosscuts 109 and 110.

Plate 3, Cross Belt Ventilation, shows addition of belt isolation stoppings after the cross belt conveyor and section conveyor have been installed. Stoppings will be installed between crosscut 109 and 110 in entries M2, M1, S4, S3, and S2 to separate the intake air course from the belt air course. Stoppings will be installed between crosscuts 110 and 111 in entries M2, M1, S4, and S3 to separate the return aircourse from the belt air course. Belt isolation stoppings will be constructed between entries S1 and S2 in crosscut 110 and 111. Belt isolation stoppings will be constructed between entries S2 and S3 in crosscut 111.

Plate 4, Mining Ventilation, shows the proposed ventilation as the section is advanced. Belt isolation stoppings will be advanced as the section advances as per the approved ventilation plan.





SOUTH BLOCK OF MAIN WEST MINING

NOTES:
 1. EXISTING VENTILATION DEVICES AND PLACEMENT OF VENTILATION DEVICES SHALL BE MAINTAINED AND VENTILATION DEVICES SHALL BE MAINTAINED IN LOCATIONS AS SHOWN SHALL BE UTILIZED TO INSURE ALL AREAS ARE VENTILATED.
 2. THE ROOF IN ALL ENTRIES WILL BE SUPPORTED ACCORDING TO THE APPROVED ROOF CONTROL PLAN. ENTRIES WILL BE MAINTAINED TO KEEP THE ENTRIES FREE OF STANDING WATER IN EXCESSIVE DEPTHS WHICH WOULD PREVENT SAFE TRAVEL. A SYSTEM OF PUMPS AND/OR GRAVITY DRAINAGE WILL BE USED TO REMOVE WATER.

- LEGEND
- PRIMARY ESCAPEWAY
 - SECONDARY ESCAPEWAY
 - PROPOSED SEAL
 - EVALUATION POINT
 - MPL DIRECTION & QUALITY POINT
 - CHECK CURTAIN
 - FD FIRE DOORS
 - VENTILATION DOOR
 - VENTILATION DEVICE REMOVED
 - BELT ENTRY/BELT AIR
 - INTAKE ENTRY
 - RETURN ENTRY
 - BLEEDER/BLEEDER AIR
 - OVERCAST
 - BOX CHECK
 - REGULATOR
 - EQUIPMENT DOORS
 - STOPPING
 - VENTILATION DEVICE ADDED OR MODIFIED

APPROVED
 MAR 23 2007
 CRASH

EXISTING VENTILATION
Utah American Energy, Inc.
Crandall Canyon Mines
 P.O. BOX 1077
 PRCR, UT 84050
 MSHA ID #42-01715
 SCALE 1" = 300'
 SHEET 19 OF 19
 DATE 19 MARCH 2007

EXHIBIT

TWO

U.S. Department of Labor

Mine Safety and Health Administration
P.O. Box 25367
Denver, Colorado 80225-0367



Coal Mine Safety and Health
District 9

JUN 01 2007

Gary Peacock
General Manager
Genwal Resources, Inc.
P.O. Box 1077
Price, UT 84501

RE: Crandall Canyon Mine
ID No. 42-01715
Ventilation Plan Amendment

Dear Mr. Peacock:

The enclosed plan amendment, dated May 16, 2007, consisting of a cover letter and Plate Nos. 5 and 6, addressing retreat mining in the Main-West South-Barrier Panel, is approved in accordance with 30 CFR §75.370(a)(1). This amendment will be incorporated into the Ventilation Plan approved on July 27, 2006.

This approval supersedes the following:

1. The Ventilation Plan amendment approved on February 9, 2007, addressing pillar extraction in the North Barrier of main west.
2. The Ventilation Plan amendment approved on February 14, 2007, addressing drilling boreholes between the north block of Main West and the sealed portion of Main West.

This approval is site specific and will terminate upon completion of the project.

A copy of this approval shall be made available to the miners and reviewed with all miners affected by this plan.

Sincerely,

A handwritten signature in black ink that reads "Allyn C. Davis". The signature is written in a cursive, flowing style.

Allyn C. Davis
District Manager

Enclosure

cc: Tom Hurst

UtahAmerican Energy, Inc.



Crandall Canyon Mine
a subsidiary

Hwy31 MP 33, Huntington, UT 84528
PO Box 1077, Price, UT 84501
Phone: (435) 888-4000
Fax: (435) 888-4002



USDOL - MSHA - CMS&H
DISTRICT 9

May 16, 2007

Mr. Allyn C. Davis
District Manager
Coal Mine Safety and Health
P.O. Box 25367
Denver, Colorado 80225

Re: Crandall Canyon Mine ID# 42-01715 Ventilation Plan for Pillaring Main West South Barrier

Dear Mr. Davis:

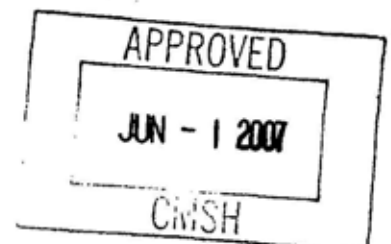
Please find attached for your review and approval, a ventilation plan for mining the South Barrier of Main West at our Crandall Canyon Mine. The plan consists of one page of text and 2 Plates.

Please contact me with any questions at [REDACTED].

Sincerely,

A handwritten signature in cursive script that reads "Tom Hurst".

Tom Hurst
Mining Engineer
[REDACTED]



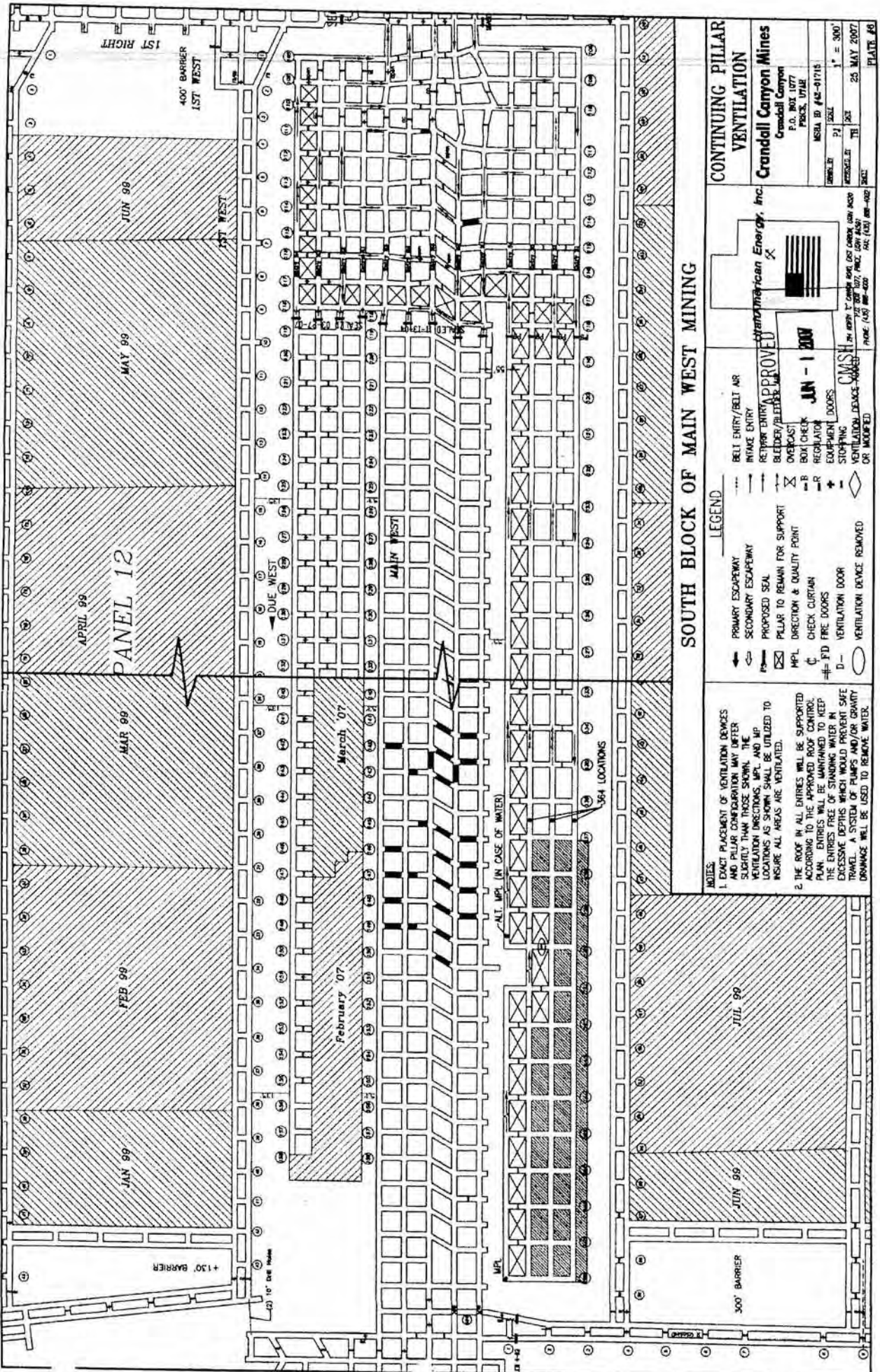
**Crandall Canyon Mine
MSHA ID Number 42-01715
Main West South Barrier Pillar Ventilation**

The mine is currently developing entries in the south barrier block of the Main West Area. This plan is for the ventilation for the pillar recovery of the developed area of the south barrier block.

The bleeder system proposes is a wrap around bleeder type. The bleeder measurement point location (MPL) will be located at the deepest point of penetration or the edge of accumulated (roofed) water. The pillar recovery proposed by this plan will be done in accordance with the approved Roof Control Plan. Examinations of the bleeder will be conducted in accordance with 30 CFR Part 75.364. The MPL proposed for the #4 entry of the Main West south barrier would be moved outby if water accumulations were to occur. In conjunction with the retreating MPL, the stopping immediately inby the newly established MPL will be removed to insure sufficient airflow in the bleeders. Plate 5, Pillar Ventilation, shows the ventilation after pillaring has begun. Plate 6, Continuing Pillar Ventilation, shows the ventilation with water accumulations sufficient to require an alternate MPL because of roofed water inby the pillar line.

The elevations in this area of the mine are down dip to the beginning of the pillar line. This proposal is to conduct weekly examinations in accordance with 30 CFR Part 75.364 at the toe of any accumulated water (roofed) on the return side of the bleeders. It is not anticipated that accumulations of water will be a significant problem in this area. The alternate MPL is proposed in the event water accumulates, preventing travel inby in the bleeder entry.





From: Poulson, Jim
Sent: Monday, February 12, 2007 6:23 PM
To: Hill, Bruce; Hibbs, David; Laine, Adair; Peacock, Gary; Bodee Allred
Subject: FW: Drilling at Crandall

Here is the reply from Denver. I will get back to them and get them working on it now.

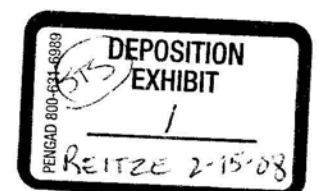
James Poulson
Safety Manager UEI
[REDACTED] work
[REDACTED] cell

From: Reitze, William P - MSHA [mailto:[REDACTED]]
Sent: Monday, February 12, 2007 11:18 AM
To: Poulson, Jim
Cc: Fleshman, Jeffrey L - MSHA
Subject: Drilling at Crandall

Jim:

I did get your voicemail. We do not have any outgoing phone service right now. They are working on the problem. I just checked with Jeff and apparently he received something from Hibbs that came in late Thursday and he was not here Friday. He has been on a special project this morning, so has not had time to look at his email. We have several rushes ahead of yours (if this is a rush) so we probably will not get to it for a while.

Bill



9/27/2007

UEICONG-K000013840

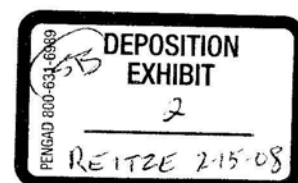
From: Poulson, Jim
Sent: Tuesday, February 13, 2007 1:57 PM
To: [REDACTED]
Cc: [REDACTED] Hill, Bruce; Laine Adair ([REDACTED]); Hibbs, David; Hurst, Tom
Subject: Drill Plan for Crandall Canyon

Bill,

I am sending this email to remind and impress upon you that we need the drill plan for Crandall reviewed and approved. As per our discussion they want to start drilling today 2/13/07. Please call Tom Hurst @ [REDACTED] Dave Hibbs @ [REDACTED] or myself if you have questions.

Thank you,

James Poulson
Safety Manager UEI
[REDACTED] work
[REDACTED] cell



9/27/2007

UEICONG-K000006559

Message number 323

From: Knepp, William P - MSHA

To: Davis, Allyn C - MSHA <Davis, Allyn C - MSHA>

Cc: Reitze, William P - MSHA; Owens, Billy D - MSHA

Bcc:

Subject: Early Look at Issues

Date: 8/28/2007 11:42:17 AM

Importance: normal

1. Roof control plan: both the development and retreat of the north and south barriers.

The Agapito Report [dated July 20, 2006] recommended a pillar size of 60 feet by 72 feet as measured from rib to rib [not centers] for development and pillaring of the North Barrier block. The amendment for development, approved November 21, 2006, included pillars on centers of 80 feet by 90 feet. With entry and crosscut widths mined 18 feet wide, the effective pillar size would be 62 feet by 72 feet, which follows the Agapito Report recommendations. The Agapito report also recommended skipping pillars if conditions dictated this was the prudent mining practice.

They did not show the change in pillar size, from north to the south and didn't reflect much of the Agapito recommendations, rather just relied on standard figures in the old base plan.

The amendment to develop the South Barrier was approved March 8, 2007. The same Agapito recommendations from the 2006-reports were incorporated into the approval. The week of March 14th the Roof Control Group was notified that ground conditions had resulted in the section skipping pillars and the area was bouncing, therefore the section was moving to the South Barrier. They requested that the pillaring plan be approved soon so they could retreat if conditions dictated that development stop. The mine was informed to contact the district when development reached a point where an adequate evaluation of conditions could be conducted. The District received the April 18, 2007-Agapito Report on May 15, 2007. The Roof Control Supervisor visited the mine on May 22, 2007. The Agapito report recommended pillars for the South Barrier be on centers of 80 feet by 129 feet with entry widths of 17 feet. The approved amendment had centers of 80 feet by 130 feet. The Agapito report recommended that no pillars be skipped during retreat mining. The Roof Control Supervisor had the mine skip three rows of pillars from crosscuts 142 to 139 to protect the bleeder entry. The Agapito Report also recommended that a cut be taken out of the barrier pillar to transfer stress to the previously mined gob and away from the outby pillars. This recommendation was included in the approval of the amendment.

No mention of floor coal, which was being taken.

Mining of the floor coal was not approved and was never discussed as part of the pillaring plan.



2. Vent Plan: We approved sealing of the 1 South area in 2006, but it was never sealed.

The 1st South and South Mains areas were never sealed, as the mine wanted to use this area as the flow through bleeder system when final recovery of the mains was started. They were intending to retreat mine out by the South Mains after completion of the North and South Barriers of West Mains.

3. Approved pillar mining against seals.

Since this area will become part of the gob, and there are means to monitor the gob through bleeder evaluation points, and since there has been a history of no methane at this location, there was no issue.

4. Not remotely evaluating seals.

As per previous directives from HQ and in the Bleeders and Gobs Training Course and discussion on many occasions at the Academy at Vent Supervisors meetings and other meetings, seals which become a part of a gob are no longer required to be examined as per 75.364. Seals within gob areas can be examined by means of an evaluation as listed in the vent plan. Evaluation points for this gob are contained in the ventilation plan.

5. ineffective bleeder evaluation.

I am not sure what this is referring to. A bleeder evaluation method is included in the ventilation plan based on the specific conditions of this mine. There are MPLs listed on drawings in the plan at strategic locations which ensure that each of the gobs is monitored.

6. Vent plan approval date of 2006, any review since?

There have been reviews performed by the field office on each of the E01s that have been done.

There has not been a Ventilation Group review performed since July of 2006. The workload of the Ventilation Group has grown by 2-3 times in the last year and a half due to the seal issues multiple times, MEE regulations twice, ERPs and the moving targets associated with completing these, the new Seal ETS and associated protocols, and the continuing ventilation plan amendments and day-to-day issues and questions that continue. There were no additional resources provided to assist in accomplishing all of the above and continue with the ventilation plan reviews and other things. Quite clearly, the priority from HQ has been the MEE plans and ERP plans, and seal issues and with no additional resources provided, priorities had to be determined.

7. Vent and RC plans approved less than the Agapito report.

The approved roof control plan amendments followed the Agapito Report recommendations, except for the recommendation to not skip pillars in the South Barrier. The Agapito Report evaluated ground control

conditions only and did not evaluate the requirements for ventilation, bleeder systems, and the safety of miners and inspectors conducting required examinations and inspections.

In addition to the seven questions here is one other ---- The reporting of the bounce will become an issue. The bounce was not reported to the national call center or to anyone on the day it occurred, Lane Adair claims he called the following day on Monday morning and discussed roof conditions with Billy Owens, the day after the bounce occurred. Owens did not recall this conversation as a bounce discussion or of it being to report a reportable accident, rather as a general ground conditions and moving to the south barrier. Reitze listened to a voice mail on Tuesday from March 13th that in general talked about moving the evaluation point because of a bounce and ground conditions. This also was not taken as reporting a reportable accident nor did the operator give such an impression. There were phone conversations that followed between Reitze and the operator and the request denied. The operator then decided to immediately seal the area however did not have an approved seal. Emails and phone conversations then followed among Reitze, Fredland, and Allyn, attempting to expedite some type of seal approval. The word bounce did appear in at least one email, but in all cases was in the context of being a part of overall ground conditions and not significant enough or ever indicated to meet the criteria as a reportable accident. When the subject came up after the accident I informed HQ after talking to Owens, Allyn, Cornett, Bill Taylor and Bill Denning that we were not aware of any bounce. Later I came across the part in the third Agapito report that mentioned a bounce and Bill Reitze informed me about his discussions when I started to probe this issue. Also the email to Fredland appeared related to the seal issue an attempting to get an approval.

From: Fredland, John W. - MSHA
Sent: Tuesday, March 13, 2007 2:38 PM
To: Davis, Allyn C - MSHA
Cc: Reitze, William P - MSHA; Hoch, Terry - MSHA
Subject: Construction of Seals at Crandall Mine

Allyn,

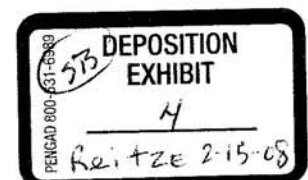
As you informed me by phone this afternoon, Crandall Canyon Mine has experienced a bounce and has an urgent need to construct seals. You asked whether we could allow the mine operator to proceed with seal construction based on the same seal plan that has been provisionally approved for West Ridge Mine.

The provisionally approved seals at West Ridge are Minova pumpable seals. Provided the conditions at Crandall Canyon are similar with respect to the roughness/undulation of the ribs, roof and floor, then I have no problem with recommending that Crandall Canyon be permitted to construct these urgently needed seals using the same specifications as was approved for the Minova seals at West Ridge Mine. Minova seal plans include a table which provides the required thickness of the seal based on the height and width of the mine entry. This table should be followed for seal thickness. (Any approval to use Minova seals should be provisional based on Minova completing more detailed analyses and material testing to verify seal adequacy.)

(Note that the plan for West Ridge was complicated by the construction of partial walls for water impoundment just inby one of the seals. For this condition, the seal had to be designed for the potential for increased explosion pressure. The additional construction requirements approved for this seal would not be needed if this higher pressure condition does not exist at Crandall Canyon. More recently than the West Ridge approval, Technical Support has agreed with Minova (provisionally) on two seal-thickness tables, one for gob isolation type seals (seals which will experience significant convergence), and one for main or longer-term seals. If I remember correctly, the longer term seals are to be 20% thicker than the gob isolation-type seals. Crandall Canyon could use these updated tables and use the appropriate thicknesses depending on the conditions at the seal location – but seal site preparation and other construction requirements should be the same as was approved for West Ridge.)

If you have any questions about this recommendation, please let me know.

John



From: Hibbs, David
Sent: Monday, July 23, 2007 10:53 PM
To: Davis, Allyn C - MSHA
Cc: Reitze, William P - MSHA; Fleshman, Jeffrey L - MSHA; Adair, Laine; Peacock, Gary; Allred, Bodee; Poulson, Jim; James Newman
Subject: FW: Scan from West Ridge Office Xerox
Attachments: Scan001.PDF



Scan001.PDF (837 KB)

Attached for your review is a Site Specific Ventilation Plan for Retreat of the Main West at the Crandall Mine.

David W. Hibbs
UtahAmerican Energy, Inc.
P.O. Box 1077
Price, Utah 84501

Phone [REDACTED]
Fax [REDACTED]
Cell [REDACTED]

-----Original Message-----

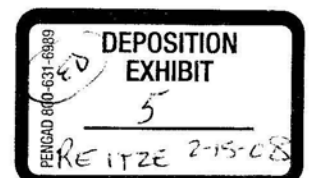
From: [REDACTED] [mailto:[REDACTED]]
Sent: Monday, July 23, 2007 5:44 PM
To: Hibbs, David
Subject: Scan from West Ridge Office Xerox

Please open the attached document. It was scanned and sent from UtahAmerican Energy, WestRidge Mine

Sent by: Guest
Number of Images: 8
Attachment File Type: PDF

WorkCentre Location: WestRidge Office

West Ridge Mine
Main Office,
Telephone: 435-888-4000
Fax: 435-888-4002





Crandall Canyon Mine
a subsidiary

Hwy31 MP 33, Huntington, UT 84528
PO Box 1077, Price, UT 84501
Phone: (435) 888-4000
Fax: (435) 888-4002

July 21, 2007

Mr. Allyn C. Davis
District Manager
Coal Mine Safety & Health
P.O. Box 25367
Denver, Colorado 80225-0367

Re: Crandall Canyon Mine ID #: 42-01715
Ventilation Plan for Retreat Main West

Please find for your review and approval the enclosed the Ventilation Plan for the Main West Block A. This plan contains 5 plates detailing the ventilation modifications while retreating though Block A.

If you have any questions, please contact me at [REDACTED]

Sincerely,

David Hibbs
Mining Engineer

Crandall Canyon Mine MSHA ID# 42-01715

Retreat Main West Block A Ventilation Plan

Plate 1, Existing Ventilation, shows existing ventilation at the beginning after the seals have been built and the blocks left in the mining process of Block A. Crosscut 118 between entries S4 and M1 will be developed before pillar extraction begins.

The bleeder system proposes is a wrap around bleeder type. The bleeder measurement point location (MPL) will be located at the deepest point of penetration.

Plate 2, Continuing Pillar Ventilation, shows the ventilation after pillaring has begun. The items to ventilate this phase are:

- a) Remove stoppings between entries M2-M3 and M3-M4 at crosscut 106 of the Main West.
- b) Remove stoppings between entries M2-M3 and M3-M4 at crosscut 105 of the Main West.
- c) Remove stoppings between entries M2-M3 and M3-M4 at crosscut 104 of the Main West.
- d) Construct stoppings between entries M4-M5 at crosscuts 104, 105, 106 and 107 of the Main West.
- e) Construct stopping with regulator in entry N1 between crosscuts 92 and 93 of the North block of Main West.
- f) Construct belt box check in Entry M3 between crosscuts 103 and 104 of the Main West.
- g) Remove regulator between crosscut 107 and 108 at entry M5 of the Main West.
- h) Remove overcast at entry M2 and crosscut 90.
- i) Remove overcast at entry M2 and crosscut 91.
- j) Remove overcast at entry M3 and crosscut 91.

Plate 3 shows the ventilation for the continued pillar extraction. In plate 3 room and pillar mining will proceed on the south section of Block A. This development mining will precede at least two rooms ahead of the pillar extraction. The items to ventilate this phase are:

- a) Remove stoppings between entries M2-M3 and M3-M4 at crosscut 104 of the Main West.
- b) Remove stoppings between entries M2-M3 and M3-M4 at crosscut 103 of the Main West.
- c) Remove stoppings between entries M2-M3 and M3-M4 at crosscut 102 of the Main West.
- d) Remove stopping in entry M4 between crosscuts 103-104 of the Main West.
- e) Construct stoppings in entries N1-N4 between crosscuts 103-104 of the North Block of Main West.
- f) Remove Brattice Curtains between entries S5-M1 in crosscuts 102, 103 and 104 of the Main West.

- g) Construct belt box check in Entry M3 between crosscuts 102 and 103 of the Main West.
- h) Construct stoppings between entries N4-N5 at crosscuts 97, 98, 99, 100, 101, 102 and 103 of the North block of Main West.

Plate 4 shows the ventilation for the continued pillar extraction. In plate 4 room and pillar mining will proceed on the south section of Block A. This development mining will precede at least two rooms ahead of the pillar extraction. The items to ventilate this phase are:

- a) Remove stoppings between entries M2-M3 and M3-M4 in crosscut 96 of the Main West.
- b) Remove stoppings between entries M2-M3 and M3-M4 in crosscut 95 of the Main West.
- c) Remove Brattice Curtains between entries S5-M1 in crosscuts 96, 95, 94, and 93 of the Main West.
- d) Construct belt box check in Entry M3 between crosscuts 94 and 95 of the Main West.

Plate 5 is the end of mining Block A and the Proposed Seal location. The items to ventilate this phase are:

- a) Construct the proposed seals in entries M2-M5 between crosscuts 91 and 92 of the Main West.
- b) Construct the proposed seals in entry M1 between crosscuts 92 and 93 of the Main West.
- c) Construct the proposed seals between entries M1-M2 in crosscuts 92 of the Main West.
- d) Construct belt box check in Entry M3 between crosscuts 87 and 88 of the Main West.

